IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 222 OF 2005

IN

SUM. SUIT NO. 1903 OF 2003

Bombay Dyeing and Mfg.
Co., Ltd., ... Plaintiffs.

vs.

M/s. Arman Enterprises
& Anr. ... Defendants.

Mr. B.R. Palav i/by Pram Ranga for plaintiffs.
Mr. B. Mohidin for defendants 1 & 2.

CORAM : S.U. KAMDAR, J.
DATE : 25TH OCTOBER, 2005.

P.C.

. The present suit is filed on dishonoured cheque for Rs.4,39,467/- In so far as Rs. 100/- being the bank charges are concerned, the learned counsel for the plaintiffs gives it up.

2. The learned counsel for the advocate has contended that he should be granted unconditional leave to defend because M/s. Kunal Agencies was a necessary and property party and he is not impleaded

as a party defendant in the suit. It has been thus contended that the suit is not maintainable. He has contended that a blank cheque which was given to M/s. Kunal Agencies was misused by them. He has relied upon the letter written by M/s. Kunal Agencies which is at Exhibit A to the plaint being dated 5.12.2001. However, the letter makes it clear that Kunal Agencies was acting on behalf of the defendant themselves. The cheque at Exhibit B to the plaint is made payable to Bombay Dyeing & Mfg. Co. Ld,. and not to Kunal Agencies. In that light of the matter, I do not find any substance in the defence raised by the defendant. I, therefore, direct the defendant to deposit Rs. 4 lacs as a condition of leave to defend the suit. If amount is not deposited the plaintiff will be entitled to the decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned

Judge taking Commercial Causes.